STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Anderson Medical Supplies
Petitioner **File No. 21-1532**

v

American Economy Insurance Company
Respondent

Issued and entered
this 18th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On October 12, 2021, Anderson Medical Supplies (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of American Economy Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on August 9 and 26, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on October 12, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on October 12, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on October 29, 2021. The Department issued a notice of extension to both parties on January 13, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 9, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for durable medical equipment (DME) and related supplies rendered on July 1, 2021. The Petitioner billed the DME and related supplies under procedure codes E1399, E0761, E0667, 98960, A9901, and A9900. These procedure codes are described as DME; non-thermal electromagnetic energy treatment device; full leg pneumatic appliance; education and training for patient self-management; durable medical equipment set-up and delivery; and miscellaneous DME supply, accessory and/or service component, respectively. In its *Explanation of Benefits* letter issued to the Petitioner, the Respondent denied payment on the basis that the DME and related supplies were not medically necessary.

With its appeal request, the Petitioner submitted documentation which identified the injured person's diagnosis as pain in the left knee following a February 1999 motor vehicle accident. The Petitioner submitted a physician treatment note dated August 20, 2021 that indicated the injured person was status post a left knee arthroscopy with fat pad debridement and debridement of the patellar tendon, with platelet rich plasma application on June 30, 2021. Additionally, the Petitioner included a prescription and letter of medical necessity for intermittent cold compression therapy and a pulsed electro-magnetic field therapy treatment device for treatment of the injured person's left knee pain.

In its reply, the Respondent reaffirmed its initial determination that the DME and related supplies were not medically necessary in accordance with American College of Occupational and Environmental Medicine (ACOEM) guidelines and Official Disability Guidelines (ODG). Specifically, the Respondent stated:

> Intermittent cold compression therapies with orthocor active system and orthopods for the left knee, 3 month supply [i]s not recommended for pain in left knee. The medical records do not support this request, as there is documentation [the injured person] is [status post] left knee arthroscopy with patellar tendon debridement, fat pad debridement, [platelet-rich plasma] injection. Left knee pain guidelines recommend cold compression therapy for knee and leg conditions…as an option home rental for up to 7 days following major knee surgery, but not for routine arthroscopic procedures or nonsurgical treatment. Regarding pulsed magnetic field therapy (PMFT) for knee and leg conditions, a trial of this modality is medically reasonable only when administered by a qualified therapist during [physical therapy] or an evidence-based functional restoration program, especially when associated with a reduction in pain medication.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that

the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity of the durable medical equipment and related supplies were not supported on the date of service at issue.

The IRO reviewer is a board-certified orthopedic surgeon. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on American Academy of Orthopaedic Surgeons (AAOS) evidence-based clinical practice guidelines and Official Disability Guidelines (ODG) for Auto Injury for its recommendation.

The IRO reviewer explained that neither AAOS or ODG recommend Intermittent Cold Compression Therapy or Pulsed Electromagnetic Field (PEMF) therapy for the treatment of left knee pain, and guidelines state there is moderate evidence to support that cryotherapy devices used post-operatively do not improve clinical outcomes.

Based on the submitted documentation, the IRO reviewer noted the injured person had not worn the prescribed knee brace for two weeks following surgery and had not attended physical therapy. Further, the IRO reviewer noted that the injured person presented with full extension "back to 130 [degrees] of flexion equal to the opposite side," the ability to perform a straight leg raise against resistance, and was stable "to varus/valgus, anterior/posterior drawer testing" at a six-week follow up appointment.

The IRO reviewer opined that the submitted documentation did not establish medical necessity for the use of the intermittent cold compression therapy and pulsed electro-magnetic field therapy treatment devices and related supplies for the injured person.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the durable medical equipment and related supplies provided to the injured person on July 1, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determinations dated August 9 and 26, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford